

**Senate File 2245 - Introduced**

SENATE FILE 2245

BY BOLKCOM

**A BILL FOR**

1 An Act providing for paid sick leave for certain employees and  
2 providing remedies and penalties and including applicability  
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 91.4, subsection 2, Code 2014, is amended  
2 to read as follows:

3 2. The director of the department of workforce development,  
4 in consultation with the labor commissioner, shall, at the  
5 time provided by law, make an annual report to the governor  
6 setting forth in appropriate form the business and expense of  
7 the division of labor services for the preceding year, the  
8 number of remedial actions taken under chapter 89A, the number  
9 of disputes or violations processed by the division and the  
10 disposition of the disputes or violations, and other matters  
11 pertaining to the division which are of public interest,  
12 together with recommendations for change or amendment of the  
13 laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B,  
14 90A, 91A, 91C, 91D, 91E, 92, 93, and 94A, and section 85.68,  
15 and the recommendations, if any, shall be transmitted by the  
16 governor to the first general assembly in session after the  
17 report is filed.

18 Sec. 2. NEW SECTION. 93.1 Definitions.

19 For the purposes of this chapter, unless the context  
20 otherwise requires:

21 1. "*Child*" means a biological, adopted, or foster child,  
22 stepchild, legal ward, or a child to whom the service employee  
23 stands in loco parentis, who is either under eighteen years  
24 of age or eighteen years of age or older and incapable of  
25 self-care because of a mental or physical disability.

26 2. "*Commissioner*" means the labor commissioner appointed  
27 pursuant to section 91.2, or the labor commissioner's designee.

28 3. "*Domestic abuse*" means the same as defined in section  
29 236.2.

30 4. "*Employee*" means an individual who is employed in this  
31 state for compensation by an employer. "*Employee*" does not  
32 include a service employee.

33 5. "*Employer*" means any person that employs fifty or more  
34 individuals in this state in any one calendar quarter in the  
35 previous year, as determined annually on January 1. "*Employer*"

1 does not include any business establishment classified  
2 in sector 31, 32, or 33 in the north American industrial  
3 classification system, or any nonprofit organization exempt  
4 from taxation under section 501(c)(3) of the Internal Revenue  
5 Code that provides all of the following services:

6     a. Recreation.

7     b. Child care.

8     c. Education.

9     6. "*Retaliation*" means any termination of employment,  
10 suspension, constructive discharge, demotion, unfavorable  
11 reassignment, refusal to promote, disciplinary action, or other  
12 adverse employment action taken by an employer.

13     7. a. "*Service employee*" means an individual who is  
14 primarily engaged in an occupation with one of the following  
15 broad or detailed occupation code numbers and titles, as  
16 defined by the federal department of labor, bureau of labor  
17 statistics, standard occupational classification system:  
18 11-9050 food service managers; 11-9110 medical and health  
19 services managers; 21-1020 social workers; 21-1093 social and  
20 human service assistants; 21-1094 community health workers;  
21 21-1099 community and social service specialists, all other;  
22 25-4020 librarians; 29-1050 pharmacists; 29-1070 physician  
23 assistants; 29-1120 therapists; 29-1140 registered nurses;  
24 29-1150 nurse anesthetists; 29-1160 nurse midwives; 29-1170  
25 nurse practitioners; 29-2020 dental hygienists; 29-2040  
26 emergency medical technicians and paramedics; 29-2050 health  
27 practitioner support technologists and technicians; 29-2060  
28 licensed practical and licensed vocational nurses; 31-1011 home  
29 health aides; 31-1012 nursing aides, orderlies, and attendants;  
30 31-1013 psychiatric aides; 31-9091 dental assistants; 31-9092  
31 medical assistants; 33-9032 security guards; 33-9091 crossing  
32 guards; 35-1010 supervisors of food preparation and serving  
33 workers; 35-2010 cooks; 35-2020 food preparation workers;  
34 35-3010 bartenders; 35-3020 fast food and counter workers;  
35 35-3030 waiters and waitresses; 35-3040 food servers,

1 nonrestaurant; 35-9010 dining room and cafeteria attendants  
2 and bartender helpers; 35-9020 dishwashers; 35-9030 hosts  
3 and hostesses, restaurant, lounge, and coffee shop; 35-9090  
4 miscellaneous food preparation and serving-related workers;  
5 37-2011 janitors and cleaners, except maids and housekeeping  
6 cleaners; 37-2019 building cleaning workers, all other; 39-3030  
7 ushers, lobby attendants, and ticket takers; 39-5010 barbers,  
8 hairdressers, hairstylists, and cosmetologists; 39-6010 baggage  
9 porters, bellhops, and concierges; 39-9010 child care workers;  
10 39-9021 personal care aides; 41-1010 first-line supervisors of  
11 sales workers; 41-2011 cashiers; 41-2021 counter and rental  
12 clerks; 41-2030 retail salespersons; 43-3070 tellers; 43-4080  
13 hotel, motel, and resort desk clerks; 43-4170 receptionists and  
14 information clerks; 43-5020 couriers and messengers; 43-6010  
15 secretaries and administrative assistants; 43-9010 computer  
16 operators; 43-9020 data entry and information processing  
17 workers; 43-9030 desktop publishers; 43-9040 insurance claims  
18 and policy processing clerks; 43-9050 mail clerks and mail  
19 machine operators, except postal service; 43-9060 office  
20 clerks, general; 43-9070 office machine operators, except  
21 computer; 43-9080 proofreaders and copy markers; 43-9110  
22 statistical assistants; 43-9190 miscellaneous office and  
23 administrative support workers; 51-3010 bakers; 51-3020  
24 butchers and other meat, poultry, and fish processing workers;  
25 51-3090 miscellaneous food processing workers; 53-3010  
26 ambulance drivers and attendants, except emergency medical  
27 technicians; 53-3020 bus drivers; or 53-3040 taxi drivers and  
28 chauffeurs; and to whom at least one of the following applies:

29 (1) The individual is paid on an hourly basis.

30 (2) The individual is subject to the minimum wage and  
31 overtime compensation requirements of the federal Fair Labor  
32 Standards Act.

33 *b. "Service employee"* does not include an individual who  
34 performs work for and receives compensation from a person on a  
35 daily basis or an occasional or irregular basis for only the

1 time required to complete such work, whether such individual is  
2 compensated by the person for whom such work is performed or by  
3 an employment agency as defined in section 94A.1.

4 8. "*Sexual assault*" means the same as defined in section  
5 915.40.

6 Sec. 3. NEW SECTION. 93.2 Paid sick leave — requirements.

7 1. An employer shall provide paid sick leave annually to  
8 each service employee employed by the employer. A service  
9 employee shall accrue paid sick leave at a rate of one hour of  
10 leave for each forty hours worked by the service employee, in  
11 one-hour increments up to a maximum of forty hours of leave  
12 per calendar year. A service employee shall not be entitled  
13 to use more than forty accrued hours of paid sick leave per  
14 year. A service employee shall be entitled to carry over up to  
15 forty unused accrued hours of paid sick leave from one calendar  
16 year to the following calendar year. A service employee shall  
17 not be entitled to the use of accrued paid sick leave if the  
18 service employee did not work an average of ten or more hours a  
19 week for the employer in the most recently completed calendar  
20 quarter prior to the date such leave is to begin.

21 2. An employer shall be deemed to be in compliance with  
22 this section if the employer offers any other paid leave or  
23 combination of other paid leave that may be used for the  
24 purposes of section 93.3 and is accrued at a rate equal to or  
25 greater than the rate described in subsection 1. Other paid  
26 leave may include but is not limited to vacation, personal  
27 days, or time off.

28 3. An employer shall pay a service employee for accrued paid  
29 sick leave at a pay rate equal to the normal hourly wage for  
30 that service employee. For any service employee whose hourly  
31 wage varies depending on the work performed by the service  
32 employee, the service employee's pay rate shall be the average  
33 hourly wage of the service employee in the pay period prior to  
34 the one in which the service employee used accrued paid sick  
35 leave.

1     4. By mutual consent of a service employee and employer, the  
2 service employee may work additional hours or shifts during the  
3 same pay period the leave is taken or during the following pay  
4 period, instead of using accrued paid sick leave.

5     Sec. 4. NEW SECTION.   **93.3 Permitted uses of leave.**

6     1. An employer shall permit a service employee to use paid  
7 sick leave accrued by the service employee for the reasons  
8 specified in subsections 2 and 3.

9     2. For a service employee, the service employee's spouse, or  
10 the service employee's child, accrued paid sick leave may be  
11 used for any of the following reasons:

12     a. Mental or physical illness, injury, or a health  
13 condition.

14     b. Medical diagnosis, care, or treatment of mental illness  
15 or physical illness, injury, or a health condition.

16     c. Preventative medical care.

17     3. For a service employee who is a victim of domestic abuse  
18 or sexual assault, accrued paid sick leave may be used for any  
19 of the following reasons:

20     a. Medical care or psychological or other counseling for  
21 physical or psychological injury or disability.

22     b. To obtain services from a victim services organization.

23     c. Relocation due to such domestic abuse or sexual assault.

24     d. Participation in any civil or criminal proceedings  
25 relating to or resulting from such domestic abuse or sexual  
26 assault.

27     Sec. 5. NEW SECTION.   **93.4 Advance notice — documentation.**

28     1. If a service employee's need to use paid sick leave is  
29 foreseeable, an employer may require advance notice, not to  
30 exceed seven days prior to the date such leave is to begin, of  
31 the service employee's intent to use such leave. If a service  
32 employee's need for such leave is not foreseeable, an employer  
33 may require a service employee to give notice of such intent  
34 as soon as practicable.

35     2. For paid sick leave of three or more consecutive days, an

1 employer may require reasonable documentation that such leave  
2 is being taken for the purposes permitted under section 93.3.  
3 If such leave is permitted under section 93.3, subsection 2,  
4 documentation signed by a health care provider who is treating  
5 the service employee or the service employee's child or spouse  
6 indicating the need for the number of days of such leave shall  
7 be considered reasonable documentation. If such leave is  
8 permitted under section 93.3, subsection 3, a court record or  
9 documentation signed by a service employee or volunteer working  
10 for a victim services organization, an attorney, a police  
11 officer, or other counselor involved with the service employee  
12 shall be considered reasonable documentation.

13     **Sec. 6. NEW SECTION. 93.5 Notice by employers.**

14     1. An employer shall, at the time of a service employee's  
15 hiring, provide notice to the service employee of all of the  
16 following:

17     *a.* The right to sick leave established by this chapter, the  
18 amount of sick leave provided, and the terms under which sick  
19 leave may be used.

20     *b.* That retaliation or discrimination by the employer  
21 against the service employee for requesting or using sick leave  
22 for which the service employee is eligible is prohibited.

23     *c.* The service employee's right to file a complaint with the  
24 commissioner for any violation of this chapter.

25     2. An employer may comply with the provisions of this  
26 section by displaying a poster in a conspicuous place,  
27 accessible to service employees, at the employer's place of  
28 business that contains the information required by this section  
29 in both English and Spanish.

30     3. The commissioner may adopt rules to establish additional  
31 requirements concerning the means by which employers shall  
32 provide notice required by this section.

33     **Sec. 7. NEW SECTION. 93.6 Termination of employment —**  
34 **limitations.**

35     1. Unless an employee policy or collective bargaining

1 agreement provides for the payment of accrued benefits upon  
2 termination, a service employee shall not be entitled to  
3 payment for the service employee's unused hours of accrued sick  
4 leave under this chapter upon termination of employment.

5 2. A service employee whose employment is terminated by an  
6 employer, and who is subsequently rehired shall not be entitled  
7 to any unused hours of paid sick leave that had been accrued by  
8 the service employee prior to the termination of the service  
9 employee's employment unless agreed to by the employer.

10 Sec. 8. NEW SECTION. 93.7 Retaliation and discrimination  
11 prohibited.

12 An employer shall not retaliate or in any other manner  
13 discriminate against a service employee because the service  
14 employee has requested or used accrued paid sick leave in  
15 accordance with this chapter or the employer's own paid sick  
16 leave policy, or because the service employee filed a complaint  
17 with the commissioner alleging the employer's violation of  
18 this chapter or has cooperated in filing such a complaint.

19 An employer shall not retaliate or in any other manner  
20 discriminate against an employee because the employee has filed  
21 a complaint with the commissioner alleging the employer's  
22 violation of this chapter or has cooperated in filing such a  
23 complaint.

24 Sec. 9. NEW SECTION. 93.8 Complaints — remedies.

25 1. An employee or service employee may file a complaint  
26 with the commissioner alleging a violation of this chapter.  
27 Upon receipt of the complaint, the commissioner shall cause an  
28 investigation to be made to the extent deemed appropriate. If  
29 the commissioner determines from the investigation that the  
30 provisions of this chapter have been violated, the commissioner  
31 shall bring an action in the appropriate district court against  
32 such person. The district court shall have jurisdiction, for  
33 cause shown, to restrain violations of this chapter and order  
34 all appropriate relief, including payment for accrued paid sick  
35 leave used by the service employee or rehiring or reinstatement



1 of the employee or service employee to the former position with  
2 back pay.

3 2. The commissioner shall advise any service employee who  
4 is covered by a collective bargaining agreement that provides  
5 for paid sick days and files a complaint pursuant to subsection  
6 1, that the service employee may have a right to pursue a  
7 grievance pursuant to such agreement.

8 Sec. 10. NEW SECTION. 93.9 Civil penalties.

9 1. An employer who violates section 93.7 is subject to a  
10 civil penalty of not more than five hundred dollars for each  
11 violation. An employer who violates any other provision of  
12 this chapter is subject to a civil penalty of not more than one  
13 hundred dollars for each violation.

14 2. The commissioner may propose that an employer be assessed  
15 a civil money penalty by serving the employer with notice of  
16 such proposal in the same manner as an original notice is  
17 served under the rules of civil procedure. Upon service of  
18 such notice, the proposed assessment shall be treated as a  
19 contested case under chapter 17A.

20 3. If an employer does not request a hearing pursuant  
21 to subsection 2 or if the commissioner determines, after an  
22 appropriate hearing, that an employer is in violation of this  
23 chapter, the commissioner shall assess a civil money penalty,  
24 consistent with the provisions of subsection 1.

25 4. An employer may seek judicial review of any assessment  
26 rendered under subsection 3 by instituting proceedings for  
27 judicial review pursuant to chapter 17A.

28 5. After the time for seeking judicial review has expired  
29 or after all judicial review has been exhausted and the  
30 commissioner's assessment has been upheld, the commissioner  
31 shall request the attorney general to recover the assessed  
32 penalties in a civil action. Any civil money penalty recovered  
33 shall be deposited in the general fund of the state.

34 Sec. 11. NEW SECTION. 93.10 Construction.

35 This chapter shall not be construed to prohibit an employer

1 from doing any of the following:

2 1. Providing more paid sick leave than is required under  
3 this chapter or placing limitations on the amount and purposes  
4 for which a service employee may use such additional leave.

5 2. Establishing a policy whereby a service employee may  
6 donate unused accrued paid sick leave to another service  
7 employee.

8 3. Taking disciplinary action against a service employee  
9 who uses accrued paid sick leave under this chapter for  
10 purposes other than those provided in this chapter.

11 Sec. 12. NEW SECTION. 93.11 Rules.

12 The commissioner shall adopt rules to administer this  
13 chapter.

14 Sec. 13. APPLICABILITY. This Act applies to collective  
15 bargaining agreements entered into on or after the effective  
16 date of this Act.

17 Sec. 14. APPLICABILITY.

18 1. For a service employee hired prior to the effective date  
19 of this Act, paid sick leave required pursuant to this Act  
20 shall begin to accrue on the effective date of this Act. For a  
21 service employee hired on or after the effective date of this  
22 Act, paid sick leave required pursuant to this Act shall begin  
23 to accrue on the service employee's date of hire.

24 2. A service employee hired prior to the effective date  
25 of this Act shall be entitled to the use of accrued paid sick  
26 leave required pursuant to this Act upon completion of six  
27 hundred eighty hours of employment from the effective date of  
28 this Act, unless the service employee's employer agrees to  
29 an earlier date. A service employee hired on or after the  
30 effective date of this Act shall be entitled to the use of  
31 accrued paid sick leave required pursuant to this Act upon  
32 completion of six hundred eighty hours of employment from the  
33 service employee's date of hire, unless the service employee's  
34 employer agrees to an earlier date.

35

EXPLANATION

1           The inclusion of this explanation does not constitute agreement with  
2           the explanation's substance by the members of the general assembly.

3       This bill requires an employer to provide paid sick leave  
4 annually to each service employee employed by the employer.  
5 The leave shall accrue at a rate of one hour of leave for each  
6 40 hours worked by a service employee, up to a maximum of 40  
7 hours per calendar year. A service employee shall not be  
8 entitled to use more than 40 accrued hours of paid sick leave  
9 per year. Forty unused accrued hours of paid sick leave can be  
10 carried over from one calendar year to the following calendar  
11 year. A service employee must work an average of 10 or more  
12 hours a week for the employer in the most recently completed  
13 calendar quarter to be entitled to use the leave. An employer  
14 shall pay a service employee for accrued paid sick leave at  
15 a pay rate equal to the normal hourly wage for that service  
16 employee.

17       The bill defines "service employee" as an individual  
18 primarily engaged in an occupation with one of certain broad  
19 or detailed occupation code numbers and titles, as defined by  
20 the federal department of labor, bureau of labor statistics,  
21 standard occupational classification system, and who is paid  
22 on an hourly basis or subject to the minimum wage and overtime  
23 compensation requirements of the federal Fair Labor Standards  
24 Act. The bill defines "employer" as any person that employs 50  
25 or more individuals in Iowa in any one calendar quarter in the  
26 previous year, as determined annually on January 1. The bill  
27 provides certain exclusions from these definitions.

28       The bill provides permitted uses of accrued paid sick leave,  
29 including medical diagnosis, care, or treatment of mental  
30 illness or physical illness, injury, or a health condition of a  
31 service employee or the service employee's spouse or child, as  
32 well as additional uses for a service employee who is a victim  
33 of domestic abuse or sexual assault.

34       The bill permits an employer to require advance notice of  
35 a service employee's intent to use accrued paid sick leave

1 and, for leave of three or more consecutive days, reasonable  
2 documentation that such leave is being taken for the purposes  
3 permitted by the bill.

4 The bill requires an employer to provide notice to a service  
5 employee at the time of hiring of the rights provided by the  
6 bill. An employer may satisfy the requirement by displaying a  
7 poster at the employer's place of business that contains the  
8 required information.

9 A service employee whose employment is terminated is not  
10 entitled to payment for unused accrued paid sick leave under  
11 the bill or, if rehired by the employer, to restoration of  
12 unused paid sick leave that had been accrued by the service  
13 employee prior to the termination.

14 The bill prohibits an employer from retaliating or in any  
15 other manner discriminating against a service employee because  
16 the service employee has requested or used paid sick leave or  
17 filed a complaint with the labor commissioner alleging the  
18 employer's violation of the bill or has cooperated in filing  
19 such a complaint. The bill prohibits retaliating or in any  
20 other manner discriminating against an employee who is not a  
21 service employee for filing such a complaint or cooperating in  
22 filing such a complaint.

23 The bill permits an employee or service employee to file  
24 a complaint with the commissioner alleging a violation of  
25 the bill. Upon receipt of the complaint, the commissioner  
26 shall investigate to the extent deemed appropriate. If the  
27 commissioner determines that the provisions of the bill have  
28 been violated, the commissioner shall bring an action in  
29 district court. The district court shall have jurisdiction,  
30 for cause shown, to restrain violations of the bill and order  
31 appropriate relief, including payment for accrued paid sick  
32 leave used by the service employee or rehiring or reinstatement  
33 of the employee or service employee to the former position with  
34 back pay.

35 An employer who violates the prohibition against retaliation

1 or other discrimination in the bill is subject to a civil  
2 penalty of not more than \$500 per violation. An employer who  
3 violates any other provision of the bill is subject to a civil  
4 penalty of not more than \$100 per violation. The bill provides  
5 procedures for the imposition, contestation, and collection of  
6 such penalties.

7 The bill does not prohibit an employer from providing more  
8 paid sick leave than required by the bill, allowing donation  
9 of unused accrued paid sick leave from one service employee  
10 to another, or taking disciplinary action against a service  
11 employee who uses accrued paid sick leave under the bill for  
12 purposes other than those provided in the bill.

13 The bill applies to collective bargaining agreements entered  
14 into on or after the effective date of the bill.

15 For a service employee hired prior to the effective date  
16 of the bill, paid sick leave shall begin to accrue on the  
17 effective date of the bill. For a service employee hired on  
18 or after the effective date of the bill, paid sick leave shall  
19 begin to accrue on the service employee's date of hire.

20 A service employee hired prior to the effective date of  
21 the bill shall be entitled to the use of accrued paid sick  
22 leave upon completion of 680 hours of employment from the  
23 effective date of the bill. A service employee hired on or  
24 after the effective date of the bill shall be entitled to the  
25 use of accrued paid sick leave upon completion of 680 hours of  
26 employment from the service employee's date of hire.